

or amount of freight revenue necessary to obtain the rate or rate schedule(s), except that the minimum quantity of cargo committed by the shipper may not be expressed as a fixed percentage of the shipper's cargo.

(A) *Subterm.* Example: Minimum quantity in 20FT Containers.

(B) *Subterm.* Example: Minimum quantity in 40FT Containers.

(v) *Service commitments (No. 5).* Mandatory term No. 5 shall address the service commitments of the carrier, conference or specific members of a conference, such as assured space, transit time, port rotation or similar service features.

(vi) *Contract rates or rate schedule(s) (No. 6).* Mandatory term No. 6 shall contain the contract rates or rate schedules, including any additional or other charges (i.e., general rate increases, surcharges, terminal handling charges, etc.) that apply, and any and all conditions and terms of service or operation or concessions which in any way affect such rates or charges; except that a contract may not permit the contract rate to be changed to meet a rate offer of another carrier or conference not published in a tariff or set forth in a service contract on file with the Commission.

(vii) *Liquidated damages for non-performance (if any) (No. 7).* Mandatory term No. 7 shall include liquidated damages for non-performance. See § 514.7(1).

(viii) *Later events causing deviation from ET (if any) (No. 8).* Where a contract clause provides that there can be a deviation from an original, essential term of a service contract, based upon any stated event occurring subsequent to the execution of the contract, mandatory term No. 8 shall include a clear and specific description of the event, the existence or occurrence of which shall be readily verifiable and objectively measurable. See § 514.7(1). This requirement applies to, *inter alia*, the following types of situations:

(A) Retroactive rate adjustments based upon experienced costs;

(B) Reductions in the quantity of cargo or amount of revenues required under the contract;

(C) Failure to meet a volume requirement during the contract duration, in

which case the contract shall set forth a rate, charge, or rate basis which will be applied.

(D) Options for renewal or extension of the contract duration with or without any change in the contract rate or rate schedule;

(E) Discontinuance of the contract;

(F) Assignment of the contract; and

(G) Any other deviation from any original essential term of the contract.

(ix) *Duration of the Contract (No. 9).* The duration of the contract shall be stated as a specific fixed time period, with a beginning date (effective date) and an ending date (expiration date). See paragraph (d)(4)(ii) and (d)(5)(iii) of this section.

(x) *Assessorials (No. 10).* Mandatory Term 10 shall contain all ET assessorials, preferably using a separate subterm for each type of assessorial. For every assessorial, the filer shall set forth either:

(A) The full assessorial; or

(B) A complete cross-reference to the place(s) where it may be found.

(8) *Optional terms.* Any essential term of a service contract not otherwise specifically provided for in this section shall be entered after the mandatory terms and in numerical order, beginning with No. 100.

[57 FR 36271, Aug. 12, 1992, as amended at 58 FR 28, Jan. 4, 1993; 61 FR 35686, July 8, 1996]

§ 514.18 Special permission.

(a) *General.* Section 8(d) of the 1984 Act and section 2 of the 1933 Act authorize the Commission, in its discretion and for good cause shown, to permit increases or decreases in rates, or the issuance of new or initial rates, on less than statutory notice under § 514.9. Section 9(c) of the 1984 Act authorizes the Commission to permit a controlled common carrier's rates, charges, classifications, rules or regulations to become effective on less than 30 days' notice. The Commission may also in its discretion and for good cause shown, permit departures from the requirements of this part. The Commission will grant such permission only in cases where merit is demonstrated.

(b) *Clerical errors.* Typographical and/or clerical errors constitute good cause for the exercise of special permission authority but every application based

thereon must plainly specify the error and present clear evidence of its existence, together with a full statement of the attending circumstances, and shall be submitted with reasonable promptness after filing the defective tariff material. For correction of clerical errors in the essential terms of service contracts, see § 514.7(k)(2).

(c) *Application*—(1) *By authorized official; filing fee.* Application for special permission to establish rate increases or decreases on less than statutory notice or for waiver of the provisions of this part, shall be made by the common carrier, conference or agent that holds authorization under § 514.4(d) to file the tariff matter. Every such application shall be submitted to BTCL and be accompanied by the filing fee provided in § 514.21.

(2) *Transmittal.* Application for special permission shall be made only by cable, telegram or letter, except that in emergency situations, application may be made by telephone if the telephone communication is promptly followed by a cable, telex or letter and the filing fee.

(3) *Content.* Except as provided in § 514.7(k)(2) for correction of essential terms, applications for special permission shall contain the following information:

(i) The organization name, number and d/b/a of the conference or carrier under § 514.11(b);

(ii) The tariff number, title and tariff code under § 514.11(b); and

(iii) The rate, commodity, Tariff Rules, etc. (related to the application), and the special circumstances which the applicant believes constitute good cause to depart from the requirements of this part or to warrant a tariff change upon less than the statutory notice period.

(d) *Implementation.* (1) If all conditions are complied with and if the authority granted by special permission is used, it shall be used in its entirety and in the manner set forth by the Commission, including the prompt electronic filing of the material for which permission is requested, with the filer using the special case number assigned by the Commission for that filing and the special case symbol “S,” as prescribed in § 514.9(b)(19)(i).

(2) If Commission-specified conditions are not complied with, or if the exact authority granted by the special permission is not used and more, less or different authority is desired, a new application complying with the requirements of this part in all respects and referring to the previous special permission must be filed.

[57 FR 36271, Aug. 12, 1992, as amended at 57 FR 46324, Oct. 8, 1992; 58 FR 30, Jan. 4, 1993]

§ 514.19 Suspension of tariff matter.

All use of suspended tariff matter shall be deferred for the period specified in the Commission's suspension order. In addition to other affected places in the tariff, as provided in this section, the fact that tariff matter is suspended is also displayed through the “Status” function in the command line, as described in § 514.8(n)(3).

(a) *Domestic offshore commerce*—(1) *Suspension; period.* The Commission may suspend from use any rate, fare, charge, classification, Tariff Rule, regulation, or practice of a domestic offshore carrier for a period of up to 180 days beyond the time it would otherwise have lawfully taken effect.

(2) *Implementation.* Upon issuance of an order suspending tariff matter in whole or in part, BTCL shall immediately make the appropriate entry in the domestic offshore carrier's tariff(s) for each suspended item, which entry:

(i) Specifically identifies the tariff matter suspended and sets forth any tariff provisions which may remain effective in lieu of the suspended provisions;

(ii) Bears an effective date coinciding with that in the applicable suspension order;

(iii) Bears a thru date coinciding with the end of the suspension period specified in the Commission order; and

(iv) Reproduces in the ATFI System News and/or the applicable commodity description record, TLI notes, Tariff Rule text, etc., those portions of the order directed by the Commission to be so published, or, in the absence of such direction, reproduces the suspension order in its entirety.

(3) *Amendment of suspended tariff matter.* (i) Neither suspended matter nor matter continued in effect as a result